

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JASON CHANCE,

Plaintiff,

v.

CHRISTY PASHA, et al.,

Defendants.

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No. 4:16-CV-82 CAS

MEMORANDUM AND ORDER

This matter is before the Court on pro se plaintiff's (1) motion to appoint counsel, and (2) motion for a preliminary injunction and temporary restraining order. For the following reasons, the motions will be denied and plaintiff will be ordered to file an amended complaint, a motion to proceed in forma pauperis, and a prison account statement.

On February 10, 2016, plaintiff was ordered to submit, within thirty days, an amended complaint, a motion to proceed in forma pauperis, and a prison account statement. To this date, plaintiff has failed to do so. Instead, plaintiff has filed a motion for appointment of counsel and a motion for injunction. Although this action is subject to dismissal for plaintiff's failure to comply with a Court Order, pursuant to Federal Rule of Civil Procedure 41(b), the Court will not dismiss the action at this time. Plaintiff will be provided thirty additional days to comply with this Court's February 10, 2016 Memorandum and Order. Plaintiff's failure to do so will result in a dismissal of this action, without prejudice.

Plaintiff's motion for counsel will be denied, without prejudice, at this time, as he has failed to file his amended complaint. Without the filing of the amended complaint this Court is

unable to ascertain whether counsel is necessary. From the present filings before this Court, it appears that plaintiff is able to represent his own interests at this time. He appears to be cognizant of his interests and able to articulate his legal theories. Thus, his motion for appointment of counsel will be denied at this time, but after the filing of the amended complaint and the motion to proceed in forma pauperis and plaintiff's prison account statement, if plaintiff still believes he needs counsel, he may refile his motion for appointment of counsel for review by this Court.

Plaintiff's motion for injunction will also be denied at this time. The alleged "motion for injunction" is made up of only one paragraph of statements that lack any specific details of a date or time which the alleged events occurred. The statements are conclusory and state only that there have been threats against plaintiff. These statements were included in the four handwritten pages of correspondence that were originally sent to this Court as a "complaint" and are not new evidence sufficient to establish evidence of the harm necessary for a preliminary injunction. Plaintiff may renew his motion for a preliminary injunction if he can meet the necessary Dataphase factors at a later date, after his amended complaint is filed.¹

Accordingly,

IT IS HEREBY ORDERED that the Clerk shall mail to plaintiff a copy of the Court's form Prisoner Civil Rights Complaint.

IT IS FURTHER ORDERED that the Clerk shall mail to plaintiff a copy of the Court's Motion to Proceed in Forma Pauperis - Prisoner Cases.

IT IS FURTHER ORDERED that plaintiff shall file an amended complaint on the Court-provided form within thirty (30) days of the date of this Order.

¹To determine whether preliminary injunctive relief is warranted, the Court must balance threat of irreparable harm to movant, the potential harm to nonmoving party should injunction issue, the likelihood of success on merits, and the public interest. Dataphase Sys. v. CL Sys., 640 F.2d 109, 113-14 (8th Cir. 1981) (en banc).

IT IS FURTHER ORDERED that plaintiff shall either pay the \$400 filing fee or submit a motion to proceed in forma pauperis within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if plaintiff submits a motion to proceed in forma pauperis, he must also submit a certified copy of his prison account statement for the six month period immediately preceding the filing of his complaint.

IT IS FURTHER ORDERED that plaintiff's motion for appointment of counsel is **DENIED without prejudice**. [Doc. 3]

IT IS FURTHER ORDERED that plaintiff's motion for injunction is **DENIED without prejudice**. [Doc. 4]

IT IS FURTHER ORDERED that if plaintiff fails to comply with this Order, the court will dismiss this action without prejudice. If the case is dismissed, the dismissal will not constitute a "strike" under 28 U.S.C. § 1915(g).

A handwritten signature in black ink, appearing to read "Charles A. Shaw", with a long horizontal flourish extending to the right.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 8th day of April 2016.